

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended
Accusation Against:

MADHURI MARELLI, P.A.

Physician Assistant
License No. PA 16588

Respondent.

Case No. 1E-2011-214960

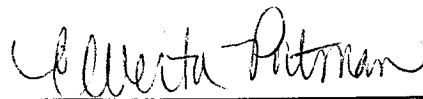
DECISION

The attached Stipulated Surrender of License and Order is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 25, 2012.

DATED June 18, 2012

PHYSICIAN ASSISTANT COMMITTEE



Elberta Portman, Executive Officer

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 TESSA L. HEUNIS
Deputy Attorney General
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Attorneys for Complainant

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9
10 **BEFORE THE**
11 **PHYSICIAN ASSISTANT COMMITTEE**
12 **MEDICAL BOARD OF CALIFORNIA**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
14 **STATE OF CALIFORNIA**

15 In the Matter of the First Amended Accusation
16 Against:

17 **MADHURI MARELLI, P.A.**
2302 Amstel Lane,
18 Vista, CA 92084

19 Physician Assistant
License No. PA 16588

Respondent.

Case No. 1E-2011-214960

OAH No. 2012050102

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
21 proceeding that the following matters are true:

22 **PARTIES**

23 1. Elberta Portman (Complainant) is the Executive Officer of the Physician Assistant
24 Committee for the Medical Board of California, Department of Consumer Affairs. She brought
25 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
26 Attorney General of the State of California, by Tessa L. Heunis, Deputy Attorney General.

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2. MADHURI MARELLI, P.A. (Respondent) is represented in this proceeding by attorney Kevin C. Murphy, Esq., whose address is 625 Broadway, Suite 600, San Diego, CA 92101.

3. On or about October 31, 2002, the Physician Assistant Committee issued Physician Assistant License No. PA 16588 to Respondent. Respondent's Physician Assistant license was in full force and effect at all times relevant to the charges brought herein. On April 10, 2012, the immediate suspension of Physician Assistant license Number PA 16588 was ordered on an *ex parte* basis. On April 27, 2012, following a noticed hearing, Respondent's license was fully suspended.

JURISDICTION

4. On or about April 25, 2012, Accusation No. 1E-2011-214960 was filed before the Physician Assistant Committee (Committee), for the Medical Board of California (Board), Department of Consumer Affairs. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on or about April 25, 2012. Respondent timely filed her Notice of Defense, contesting the charges in the Accusation.

5. On or about May 2, 2012, First Amended Accusation No. 1E-2011-214960 was filed before the Committee, for the Board, and is currently pending against Respondent. A true and correct copy of First Amended Accusation and all other statutorily required documents were properly served on Respondent on May 2, 2012. All new charges contained in First Amended Accusation were properly deemed controverted by Respondent without any further pleading being filed by her or on her behalf. A true and correct copy of First Amended Accusation No. 1E-2011-214960 is attached hereto as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 1E-2011-214960. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Disciplinary Order.

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6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in First Amended Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the complete truth of each and every charge and allegation in First Amended Accusation No. 1E-2011-214960, agrees that cause exists for discipline and hereby surrenders her Physician Assistant License No. PA 16588 for the Committee's formal acceptance.

9. Respondent understands that by signing this stipulation she enables the Committee to issue an order accepting the surrender of her Physician Assistant License No. PA 16588 without further process.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Physician Assistant Committee, Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Committee. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Committee for its consideration in the above-entitled matter and, further, that the Committee shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that she may not withdraw

1 her agreement or seek to rescind this stipulation prior to the time the Committee considers and
2 acts upon it.

3 12. The parties agree that this Stipulated Surrender of License and Disciplinary Order
4 shall be null and void and not binding upon the parties unless approved and adopted by the
5 Committee, except for this paragraph and the one immediately following it, which shall remain in
6 full force and effect. Respondent fully understands and agrees that in deciding whether or not to
7 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Committee
8 may receive oral and written communications from its staff and/or the Attorney General's Office.
9 Communications pursuant to this paragraph shall not disqualify the Committee, any member
10 thereof, and/or any other person from future participation in this or any other matter affecting or
11 involving Respondent. In the event that the Committee does not, in its discretion, approve and
12 adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this
13 paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall
14 not be relied upon or introduced in any disciplinary action by either party hereto. Respondent
15 further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected
16 for any reason by the Committee, Respondent will assert no claim that the Committee, or any
17 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
18 Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

19 13. Respondent waives her right to an expedited hearing in terms of Government Code
20 section 11529, subdivision (f), on the charges and allegations contained in First Amended
21 Accusation No. 09-2011-216645. Respondent hereby stipulates that the Interim Order of
22 Suspension issued by Administrative Law Judge James Ahler shall remain in full force and effect
23 until the effective date of the Committee's Decision and Order, approving and adopting either this
24 Stipulated Surrender and Disciplinary Order or the proposed Decision of an Administrative Law
25 Judge, following the conclusion of an administrative hearing on the charges and allegations
26 contained in First Amended Accusation No. 1E-2011-214960, whichever the case may be.

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1 Amended Accusation No. 1E-2011-214960 shall be deemed to be true, correct and admitted by
2 Respondent when the Committee determines whether to grant or deny the petition.

3 5. If Respondent should ever apply or reapply for a new license or certification, or
4 petition for reinstatement of a license, by any other health care licensing agency in the State of
5 California, all of the charges and allegations contained in First Amended Accusation, No. 1E-
6 2011-214960 shall be deemed to be true, correct, and admitted by Respondent for the purpose of
7 any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

8 6. Respondent shall pay the Committee its costs of investigation and enforcement in the
9 amount of \$24,057.50 prior to submitting a petition for reinstatement of Physician Assistant
10 license No. 16588 and/or issuance of a new license.

11 ACCEPTANCE

12 I have carefully read the above Stipulated Surrender of License and Disciplinary Order and
13 have fully discussed it with my attorney, Kevin C. Murphy, Esq. I understand the stipulation and
14 the effect it will have on my Physician Assistant License No. 16588. I enter into this Stipulated
15 Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
16 to be bound by the Decision and Order of the Physician Assistant Committee, Medical Board of
17 California.

18 DATED: May 16, 2012

Madhuri Marelli
MADHURI MARELLI, P.A.
Respondent

20 I have read and fully discussed with Respondent MADHURI MARELLI, P.A. the terms
21 and conditions and other matters contained in this Stipulated Surrender of License and
22 Disciplinary Order. I approve its form and content.

23 DATED: 5/16/12

Kevin C. Murphy
KEVIN C. MURPHY, ESQ.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Physician Assistant Committee, Medical Board of California of the Department of Consumer Affairs.

Dated: May 17, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General



TESSA L. HEUNIS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 1E-2011-214960

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2 THOMAS S. LAZAR
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3 TESSA L. HEUNIS
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 2 20 12
BY Ian McHone ANALYST

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

MADHURI MARELLI, P.A.
2302 Amstel Lane,
Vista, CA 92084

Physician Assistant's
License No. PA 16588

Respondent.

Case No. 1E-2011-214960

FIRST AMENDED ACCUSATION
(Gov. Code, § 11507)

Complainant alleges:

PARTIES

1. Elberta Portman (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Officer of the Physician Assistant Committee, Department of Consumer Affairs (Committee).

2. On or about October 31, 2002, Physician Assistant License Number PA 16588 was issued by the Committee to MADHURI MARELLI (Respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2014, unless renewed. On April 10, 2012, the immediate suspension of

1 Physician Assistant license Number PA 16588 was ordered by Administrative Law Judge James
2 Ahler.

3 JURISDICTION

4 3. This First Amended Accusation is brought before the Committee under the authority
5 of the following laws. All section references are to the Business and Professions Code (Code)
6 unless otherwise indicated.

7 4. Section 3527 of the Code provides that the Committee may order the denial of an
8 application for, or the issuance subject to terms and conditions of, or the suspension or revocation
9 of, or the imposition of probationary conditions upon a physician's assistant certificate for
10 unprofessional conduct.

11 5. California Code of Regulations, title 16, section 1399.521 states:

12 "In addition to the grounds set forth in section 3527, subdivision (a), of the Code, the
13 committee may deny, issue subject to terms and conditions, suspend, revoke or place on
14 probation a physician assistant for the following causes:

15 "(a) Any violation of the State Medical Practice Act which would constitute
16 unprofessional conduct for a physician and surgeon.

17 " ...

18 "(d) Performing medical tasks which exceed the scope of practice of a physician
19 assistant as prescribed in these regulations."

20 6. Section 2227 of the Code states:

21 "(a) A licensee whose matter has been heard by an administrative law judge of the
22 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or
23 whose default has been entered, and who is found guilty, or who has entered into a
24 stipulation for disciplinary action with the board, may, in accordance with the provisions of
25 this chapter:

26 "(1) Have his or her license revoked upon order of the board.

27 "(2) Have his or her right to practice suspended for a period not to exceed one year
28 upon order of the board.

1 “(3) Be placed on probation and be required to pay the costs of probation
2 monitoring upon order of the board.

3 “(4) Be publicly reprimanded by the board. The public reprimand may include a
4 requirement that the licensee complete relevant educational courses approved by the
5 board.

6 “(5) Have any other action taken in relation to discipline as part of an order of
7 probation, as the board or an administrative law judge may deem proper.

8 “...”

9 7. Section 2234 of the Code states:

10 “The Division of Medical Quality¹ shall take action against any licensee who is
11 charged with unprofessional conduct. In addition to other provisions of this article,
12 unprofessional conduct includes, but is not limited to, the following:

13 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
14 the violation of, or conspiring to violate any provision of this chapter.

15 “...”

16 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent
17 acts or omissions. An initial negligent act or omission followed by a separate and distinct
18 departure from the applicable standard of care shall constitute repeated negligent acts.

19 “(1) An initial negligent diagnosis followed by an act or omission medically
20 appropriate for that negligent diagnosis of the patient shall constitute a single
21 negligent act.

22 “(2) When the standard of care requires a change in the diagnosis, act, or
23 omission that constitutes the negligent act described in paragraph (1), including, but
24 not limited to, a reevaluation of the diagnosis or a change in treatment, and the

25
26 ¹California Business and Professions Code section 2002, as amended and effective
27 January 1, 2008, provides that, unless otherwise expressly provided, the term “board” as used in
28 the State Medical Practice Act (Cal. Bus. & Prof. Code, §§ 2000, et seq.) means the “Medical
Board of California,” and references to the “Division of Medical Quality” and “Division of
licensing” in the Act or any other provision of law shall be deemed to refer to the Board.

licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

“(d) Incompetence.

“(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

“(f) Any action or conduct which would have warranted the denial of a certificate.

“...”

8. Section 2238 of the Code states:

“A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.”

9. Section 2239 of the Code states:

“(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

“...”

10. Section 2261 of the Code states:

“Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.”

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11. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

12. Section 2052 of the Code states:

"(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

"(b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.

"(c) The remedy provided in this section shall not preclude any other remedy provided by law."

13. Section 2271 of the Code states:

"Any advertising in violation of Section 17500, relating to false or misleading advertising, constitutes unprofessional conduct."

14. Section 17500 of the Code states:

" It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or

1 cause to be made or disseminated before the public in this state, or to make or disseminate
2 or cause to be made or disseminated from this state before the public in any state, in any
3 newspaper or other publication, or any advertising device, or by public outcry or
4 proclamation, or in any other manner or means whatever, including over the Internet, any
5 statement, concerning that real or personal property or those services, professional or
6 otherwise, or concerning any circumstance or matter of fact connected with the proposed
7 performance or disposition thereof, which is untrue or misleading, and which is known, or
8 which by the exercise of reasonable care should be known, to be untrue or misleading, or
9 for any person, firm, or corporation to so make or disseminate or cause to be so made or
10 disseminated any such statement as part of a plan or scheme with the intent not to sell that
11 personal property or those services, professional or otherwise, so advertised at the price
12 stated therein, or as so advertised. Any violation of the provisions of this section is a
13 misdemeanor punishable by imprisonment in the county jail not exceeding six months, or
14 by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that
15 imprisonment and fine.

16 15. Section 3502 of the Code states:

17 “(a) Notwithstanding any other provision of law, a physician assistant may perform
18 those medical services as set forth by the regulations of the board when the services are
19 rendered under the supervision of a licensed physician and surgeon or of physicians and
20 surgeons approved by the board, except as provided in Section 3502.5.

21 “(b) Notwithstanding any other provision of law, a physician assistant performing
22 medical services under the supervision of a physician and surgeon may assist a doctor of
23 podiatric medicine who is a partner, shareholder, or employee in the same medical group as
24 the supervising physician. A physician assistant who assists a doctor of podiatric medicine
25 pursuant to this subdivision shall do so only according to patient-specific orders from the
26 supervising physician and surgeon.

27 “The supervising physician and surgeon shall be physically available to the physician
28 assistant for consultation when such assistance is rendered. A physician assistant assisting

1 a doctor of podiatric medicine shall be limited to performing those duties included within
2 the scope of practice of a doctor of podiatric medicine.

3 “(c) (1) A physician assistant and his or her supervising physician and surgeon shall
4 establish written guidelines for the adequate supervision of the physician assistant. This
5 requirement may be satisfied by the supervising physician and surgeon adopting protocols
6 for some or all of the tasks performed by the physician assistant. The protocols adopted
7 pursuant to this subdivision shall comply with the following requirements:

8 “(A) A protocol governing diagnosis and management shall, at a minimum,
9 include the presence or absence of symptoms, signs, and other data necessary to
10 establish a diagnosis or assessment, any appropriate tests or studies to order, drugs
11 to recommend to the patient, and education to be provided to the patient.

12 “(B) A protocol governing procedures shall set forth the information to be
13 provided to the patient, the nature of the consent to be obtained from the patient,
14 the preparation and technique of the procedure, and the followup care.

15 “(C) Protocols shall be developed by the supervising physician and surgeon or
16 adopted from, or referenced to, texts or other sources.

17 “(D) Protocols shall be signed and dated by the supervising physician and surgeon
18 and the physician assistant.

19 “(2) The supervising physician and surgeon shall review, countersign, and date a
20 sample consisting of, at a minimum, 5 percent of the medical records of patients treated by
21 the physician assistant functioning under the protocols within 30 days of the date of
22 treatment by the physician assistant. The physician and surgeon shall select for review
23 those cases that by diagnosis, problem, treatment, or procedure represent, in his or her
24 judgment, the most significant risk to the patient.

25 “(3) Notwithstanding any other provision of law, the board or committee may
26 establish other alternative mechanisms for the adequate supervision of the physician
27 assistant.

28 ////

1 “(d) No medical services may be performed under this chapter in any of the
2 following areas:

3 “(1) The determination of the refractive states of the human eye, or the
4 fitting or adaptation of lenses or frames for the aid thereof.

5 “(2) The prescribing or directing the use of, or using, any optical device
6 in connection with ocular exercises, visual training, or orthoptics.

7 “(3) The prescribing of contact lenses for, or the fitting or adaptation of
8 contact lenses to, the human eye.

9 “(4) The practice of dentistry or dental hygiene or the work of a dental
10 auxiliary as defined in Chapter 4 (commencing with Section 1600).

11 “(e) This section shall not be construed in a manner that shall preclude the
12 performance of routine visual screening as defined in Section 3501.”

13 16. Section 3502.1 of the Code states:

14 “(a) In addition to the services authorized in the regulations adopted by the board, and
15 except as prohibited by Section 3502, while under the supervision of a licensed physician
16 and surgeon or physicians and surgeons authorized by law to supervise a physician
17 assistant, a physician assistant may administer or provide medication to a patient, or
18 transmit orally, or in writing on a patient's record or in a drug order, an order to a person
19 who may lawfully furnish the medication or medical device pursuant to subdivisions (c)
20 and (d).

21 “(1) A supervising physician and surgeon who delegates authority to
22 issue a drug order to a physician assistant may limit this authority by specifying
23 the manner in which the physician assistant may issue delegated prescriptions.

24 “(2) Each supervising physician and surgeon who delegates the authority
25 to issue a drug order to a physician assistant shall first prepare or adopt a
26 written, practice specific, formulary and protocols that specify all criteria for
27 the use of a particular drug or device, and any contraindications for the
28 selection. The drugs listed shall constitute the formulary and shall include only

1 drugs that are appropriate for use in the type of practice engaged in by the
2 supervising physician and surgeon. When issuing a drug order, the physician
3 assistant is acting on behalf of and as an agent for a supervising physician and
4 surgeon.

5 “(b) ‘Drug order’ for purposes of this section means an order for medication which is
6 dispensed to or for a patient, issued and signed by a physician assistant acting as an
7 individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of
8 Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued
9 pursuant to this section shall be treated in the same manner as a prescription or order of the
10 supervising physician, (2) all references to ‘prescription’ in this code and the Health and
11 Safety Code shall include drug orders issued by physician assistants pursuant to authority
12 granted by their supervising physicians, and (3) the signature of a physician assistant on a
13 drug order shall be deemed to be the signature of a prescriber for purposes of this code and
14 the Health and Safety Code.

15 “(c) A drug order for any patient cared for by the physician assistant that is issued by
16 the physician assistant shall either be based on the protocols described in subdivision (a) or
17 shall be approved by the supervising physician before it is filled or carried out.

18 “(1) A physician assistant shall not administer or provide a drug or issue a
19 drug order for a drug other than for a drug listed in the formulary without
20 advance approval from a supervising physician and surgeon for the particular
21 patient. At the direction and under the supervision of a physician and surgeon,
22 a physician assistant may hand to a patient of the supervising physician and
23 surgeon a properly labeled prescription drug prepackaged by a physician and
24 surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

25 “(2) A physician assistant may not administer, provide or issue a drug
26 order for Schedule II through Schedule V controlled substances without
27 advance approval by a supervising physician and surgeon for that particular
28 patient unless the physician unless the physician assistant has completed an

1 education course that covers controlled substances and that meets standards,
2 including pharmacological content, approved by the committee. The education
3 course shall be provided either by an accredited continuing education provider
4 or by an approved physician assistant training program. If the physician
5 assistant will administer, provide, or issue a drug order for Schedule II
6 controlled substances, the course shall contain a minimum of three hours
7 exclusively on Schedule II controlled substances. Completion of the
8 requirements set forth in this paragraph shall be verified and documented in the
9 manner established by the committee prior to the physician assistant's use of a
10 registration number issued by the United States Drug Enforcement
11 Administration to the physician assistant to administer, provide, or issue a drug
12 order to a patient for a controlled substance without advance approval by a
13 supervising physician and surgeon for that particular patient.

14 “(3) Any drug order issued by a physician assistant shall be subject to a
15 reasonable quantitative limitation consistent with customary medical practice in
16 the supervising physician and surgeon's practice.

17 “(d) A written drug order issued pursuant to subdivision (a), except a written drug
18 order in a patient's medical record in a health facility or medical practice, shall contain the
19 printed name, address, and phone number of the supervising physician and surgeon, the
20 printed or stamped name and license number of the physician assistant, and the signature of
21 the physician assistant. Further, a written drug order for a controlled substance, except a
22 written drug order in a patient's medical record in a health facility or a medical practice,
23 shall include the federal controlled substances registration number of the physician
24 assistant. Except as otherwise required for written drug orders for controlled substances
25 under Section 11162.1 of the Health and Safety Code, the requirements of this subdivision
26 may be met through stamping or otherwise imprinting on the supervising physician and
27 surgeon's prescription blank to show the name, license number, and if applicable, the
28 federal controlled substances number of the physician assistant, and shall be signed by the

1 physician assistant. When using a drug order, the physician assistant is acting on behalf of
2 and as the agent of a supervising physician and surgeon.

3 “(e) The medical record of any patient cared for by a physician assistant for whom the
4 physician assistant’s Schedule II drug order has been issued or carried out shall be reviewed
5 and countersigned and dated by a supervising physician and surgeon within seven days.

6 “(f) All physician assistants who are authorized by their supervising physicians to
7 issue drug orders for controlled substances shall register with the United States Drug
8 Enforcement Administration (DEA).

9 “...”

10 17. Section 4022 of the Code states, in pertinent part:

11 “‘Dangerous Drug’ or ‘dangerous device’ means any drug or device unsafe
12 for self use in humans or animals, and includes the following:

13 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits
14 dispensing without prescription,’ ‘Rx only,’ or words of similar import.

15 “...”

16 “(c) Any other drug or device that by federal or state law can be lawfully
17 dispensed only on prescription or furnished pursuant to Section 4006.”

18 18. Section 11170 of the Health and Safety Code states:

19 “No person shall prescribe, administer, or furnish a controlled substance for
20 himself.”

21 19. California Code of Regulations, title 16, section 1399.540 states:

22 “(a) A physician assistant may only provide those medical services which he or she is
23 competent to perform and which are consistent with the physician assistant's education,
24 training, and experience, and which are delegated in writing by a supervising physician who
25 is responsible for the patients cared for by that physician assistant.

26 “(b) The writing which delegates the medical services shall be known as a delegation
27 of services agreement. A delegation of services agreement shall be signed and dated by the

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1 physician assistant and each supervising physician. A delegation of services agreement
2 may be signed by more than one supervising physician only if the same medical services
3 have been delegated by each supervising physician. A physician assistant may provide
4 medical services pursuant to more than one delegation of services agreement.

5 “(c) The committee or division or their representative may require proof or
6 demonstration of competence from any physician assistant for any tasks, procedures or
7 management he or she is performing.

8 “(d) A physician assistant shall consult with a physician regarding any task,
9 procedure or diagnostic problem which the physician assistant determines exceeds his or
10 her level of competence or shall refer such cases to a physician.”

11 20. California Code of Regulations, title 16, section 1399.541 states:

12 “Because physician assistant practice is directed by a supervising physician, and physician
13 assistant acts as an agent for that physician, the orders given and tasks performed by a physician
14 assistant shall be considered the same as if they had been given and performed by the supervising
15 physician. Unless otherwise specified in these regulations or in the delegation or protocols, these
16 orders may be initiated without the prior patient specific order of the supervising physician.

17 “In any setting, including for example, any licensed health facility, out-patient settings,
18 patients' residences, residential facilities, and hospices, as applicable, a physician assistant may,
19 pursuant to a delegation and protocols where present:

20 “(a) Take a patient history; perform a physical examination and make an assessment
21 and diagnosis therefrom; initiate, review and revise treatment and therapy plans including
22 plans for those services described in Section 1399.541(b) through Section 1399.541(i)
23 inclusive; and record and present pertinent data in a manner meaningful to the physician.

24 “(b) Order or transmit an order for x-ray, other studies, therapeutic diets, physical
25 therapy, occupational therapy, respiratory therapy, and nursing services.

26 “(c) Order, transmit an order for, perform, or assist in the performance of laboratory
27 procedures, screening procedures and therapeutic procedures.

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1 “(d) Recognize and evaluate situations which call for immediate attention of a
2 physician and institute, when necessary, treatment procedures essential for the life of the
3 patient.

4 “(e) Instruct and counsel patients regarding matters pertaining to their physical and
5 mental health. Counseling may include topics such as medications, diets, social habits,
6 family planning, normal growth and development, aging, and understanding of and long-
7 term management of their diseases.

8 “(f) Initiate arrangements for admissions, complete forms and charts pertinent to the
9 patient's medical record, and provide services to patients requiring continuing care,
10 including patients at home.

11 “(g) Initiate and facilitate the referral of patients to the appropriate health facilities,
12 agencies, and resources of the community.

13 “(h) Administer or provide medication to a patient, or issue or transmit drug orders
14 orally or in writing in accordance with the provisions of subdivisions (a)-(f), inclusive, of
15 Section 3502.1 of the Code.

16 “(i)(1) Perform surgical procedures without the personal presence of the supervising
17 physician which are customarily performed under local anesthesia. Prior to delegating any
18 such surgical procedures, the supervising physician shall review documentation which
19 indicates that the physician assistant is trained to perform the surgical procedures. All other
20 surgical procedures requiring other forms of anesthesia may be performed by a physician
21 assistant only in the personal presence of an approved supervising physician.

22 “(2) A physician assistant may also act as first or second assistant in surgery under
23 the supervision of an approved supervising physician.”

24 21. California Code of Regulations, title 16, section 1399.545 states:

25 “(a) A supervising physician shall be available in person or by electronic
26 communication at all times when the physician assistant is caring for patients.

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1 “(b) A supervising physician shall delegate to a physician assistant only those tasks
2 and procedures consistent with the supervising physician's specialty or usual and customary
3 practice and with the patient's health and condition.

4 “(c) A supervising physician shall observe or review evidence of the physician
5 assistant's performance of all tasks and procedures to be delegated to the physician assistant
6 until assured of competency.

7 “(d) The physician assistant and the supervising physician shall establish in writing
8 transport and back-up procedures for the immediate care of patients who are in need of
9 emergency care beyond the physician assistant's scope of practice for such times when a
10 supervising physician is not on the premises.

11 “(e) A physician assistant and his or her supervising physician shall establish in
12 writing guidelines for the adequate supervision of the physician assistant which shall
13 include one or more of the following mechanisms:

14 “(1) Examination of the patient by a supervising physician the same day
15 as care is given by the physician assistant;

16 “(2) Countersignature and dating of all medical records written by the
17 physician assistant within thirty (30) days that the care was given by the
18 physician assistant;

19 “(3) The supervising physician may adopt protocols to govern the
20 performance of a physician assistant for some or all tasks. The minimum
21 content for a protocol governing diagnosis and management as referred to in
22 this section shall include the presence or absence of symptoms, signs, and other
23 data necessary to establish a diagnosis or assessment, any appropriate tests or
24 studies to order, drugs to recommend to the patient, and education to be given
25 the patient. For protocols governing procedures, the protocol shall state the
26 information to be given the patient, the nature of the consent to be obtained
27 from the patient, the preparation and technique of the procedure, and the
28 follow-up care. Protocols shall be developed by the physician, adopted from, or

1 referenced to, texts or other sources. Protocols shall be signed and dated by the
2 supervising physician and the physician assistant. The supervising physician
3 shall review, countersign, and date a minimum of 5% sample of medical
4 records of patients treated by the physician assistant functioning under these
5 protocols within thirty (30) days. The physician shall select for review those
6 cases which by diagnosis, problem, treatment or procedure represent, in his or
7 her judgment, the most significant risk to the patient;

8 “(4) Other mechanisms approved in advance by the committee.

9 “(f) The supervising physician has continuing responsibility to follow the progress of
10 the patient and to make sure that the physician assistant does not function autonomously.
11 The supervising physician shall be responsible for all medical services provided by a
12 physician assistant under his or her supervision.”

13 22. Title 21, Code of Federal Regulations, section 1306.03 states:

14 “(a) A prescription for a controlled substance may be issued only by an individual
15 practitioner who is:

16 “(1) authorized to prescribe controlled substances by the jurisdiction in
17 which he is licensed to practice his profession and

18 “(2) either registered or exempted from registration pursuant to §§
19 1301.22(c) and 1301.23 of this chapter.

20 “...”

21 23. Unprofessional conduct under California Business and Professions Code section 2234
22 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is
23 unbecoming to a member in good standing of the medical profession, and which demonstrates an
24 unfitness to practice medicine.²

25 24. Section 125.3 of the Code states, in pertinent part, that the Committee may request
26 the administrative law judge to direct a licensee found to have committed a violation or

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28 ² *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unlicensed Practice of Medicine)**

5 25. Respondent is subject to disciplinary action under section 3527 and California Code
6 of Regulations, title 16, section 1399.521, as defined by sections 2052, 2234, 2234, subdivisions
7 (a) and (f), 3502 and 3502.1, of the Code, and California Code of Regulations, title 16, sections
8 1399.540 and 1399.545, in that she has engaged in the unlicensed practice of medicine. The
9 circumstances are as follows:

10 26. Respondent entered into a Delegation of Services Agreement ("the Delegation") with
11 Dr. David Y. Wong, M.D., on or about October 1, 2003.

12 27. The Delegation provides, in pertinent part, that Dr. Wong "shall audit the medical
13 records of at least 10% of the patients seen by [Respondent] under any protocols which shall be
14 adopted by [Dr. Wong] and [Respondent]. [Dr. Wong] shall select for review those cases which
15 by diagnosis, problem, treatment, or procedure, represent in his judgment, the most significant
16 risk to the patient." The Delegation further provides that, in the event Dr. Wong is not available
17 when needed, Dr. Eric Lin, D.O. agrees to be a consultant and/or receive referrals.

18 28. At all relevant times, Respondent has practiced out of her home at 2302 Amstel Lane,
19 Vista, CA 92084, while Dr. Wong practices more than 90 miles away, in Torrance, California
20 and/or Santa Monica, California. They have no patients in common.

21 29. At an interview on or about December 9, 2011, conducted as part of the Medical
22 Board's investigation into this case, Dr. Wong stated that:

23 (a) Between October 1, 2003 and December 9, 2011, Respondent had visited Dr.
24 Wong's practice on two or three occasions. On those visits, however, no particular patient
25 had been discussed and Respondent had never brought any patient charts to him to sign.

26 (b) Dr. Wong had only ever visited Respondent's practice in Vista on one occasion,
27 in 2005. On that occasion, he had been in San Diego to attend a conference and stopped to

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1 visit Respondent. While he was there, he looked at "some of" Respondent's patient charts
2 and "discussed a few of the cases."

3 (c) Dr. Wong had never signed any of Respondent's patient charts and, other than
4 as indicated in paragraph (b), above, had never reviewed any of those charts.

5 (d) Dr. Wong recalled discussing one patient with Respondent in or around mid-
6 2010. During the approximately eight years between October 2003 – December 2011, Dr.
7 Wong specifically recalled discussing "maybe three or four" patients with Respondent.

8 (e) Dr. Wong has never checked what medications, if any, are being prescribed by
9 Respondent.

10 (f) Dr. Wong does not know whether Dr. Eric Lin, D.O., is aware of his obligation
11 (per the Delegation) to act as a back-up supervisor if Dr. Wong is unavailable. To his
12 knowledge, Dr. Lin has never supervised Respondent.

13 30. At an interview on February 28, 2012, conducted as part of the Medical Board's
14 investigation into this case, Respondent stated that:

15 (a) She is in "solo practice" at her home in Vista.

16 (b) The website "www.alternativehealthandhealing.com" advertizes Respondent's
17 practice on the Internet.

18 (c) She and Dr. Wong had initially intended, at the time of entering into the
19 Delegation, that she would provide him with "five (5) percent" of her patient "notes" but
20 that they "got really lax about it." On her recollection, after entering into the Delegation in
21 October 2003, they "did charts for the first few months."

22 (d) Other than the Delegation itself, there have never been any written protocols or
23 guidelines supplied, drawn up, or agreed upon by Dr. Wong, for Respondent's practice.

24 (e) Respondent pays Dr. Wong \$100.00 per month for his continued "supervision."

25 (f) Respondent has had contact with Dr. Lin only once, "initially," around the time
26 the Delegation was signed, in 2003. Dr. Lin has never supervised Respondent or reviewed
27 her patient charts.

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1 (g) Sometime during December, 2011, Respondent and Dr. Wong discussed the
2 issue of his supervision of her practice. As a result, in January, 2012, Respondent faxed
3 follow-up notes for two patients, allegedly constituting five (5) percent of her practice and
4 consisting of three (3) pages, to Dr. Wong. When asked how Dr. Wong would have a
5 proper understanding of the problems and treatment of the patients concerned, if
6 Respondent only sent the follow-up notes on the two patients, Respondent stated, "I guess if
7 he wanted to know that, he would have asked me."

8 (h) Respondent selects the patient charts that are sent to Dr. Wong.

9 31. At no time since the signing of the Delegation have the agreed upon 10% of the
10 Respondent's patient charts been audited or reviewed.

11 32. No written, practice specific, formulary and protocols specifying the criteria for the
12 use of a particular drug or device, and any contraindications for the selection, have been prepared
13 and/or adopted by Dr. Wong for use by Respondent.

14 33. Without prior approval, Respondent regularly prescribes and/or issues drug orders for
15 testosterone, a Schedule III controlled substance, and other bio-identical hormones, for her
16 patients. Likewise, she has, on occasion, prescribed and/or issued a drug order for testosterone
17 for herself.

18 34. Respondent has not completed an approved education course covering controlled
19 substances as referred to in section 3502.1 of the Code.

20 35. Without authorization, Respondent has, on occasion, prescribed and/or issued a drug
21 order for Hydrocodone, a Schedule II controlled substance, for her patients.

22 36. Paragraphs 39 through 64, 67, 69, 72 through 80, and 89 through 91, below, are
23 hereby incorporated by reference as if fully set forth herein.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Repeated Negligent Acts)**

26 37. Respondent is further subject to disciplinary action under section 3527 and California
27 Code of Regulations, title 16, section 1399.521, subdivision (a), as defined by section 2234,
28 subdivision (c), of the Code, in that she committed repeated negligent acts in her care and

1 treatment of patients SG, NC and GE. The circumstances are set forth below:

2 38. Paragraphs 26 through 35, above, are hereby incorporated by reference as if fully set
3 forth herein.

4 Patient SG:

5 39. Patient SG is a middle-aged woman with severe endometriosis who was anticipating a
6 hysterectomy-bilateral salpingoophorectomy³ and presented initially to discuss post-op options
7 for hormone treatment.

8 40. Respondent failed to conduct a physical examination of patient SG; alternatively,
9 Respondent failed to document any physical examination of patient SG.

10 41. Respondent commenced treatment of patient SG for hypothyroidism without clear
11 documentation of the rationale for treatment.

12 42. Respondent failed to properly evaluate patient SG for signs or symptoms of thyroid
13 deficiency or excess during treatment.

14 43. Respondent ordered unnecessary thyroid tests such as free T4, and T4 by dialysis.

15 44. Patient SG was given progesterone by Respondent even though she had had a
16 hysterectomy, thereby putting her at increased risk for breast cancer.

17 45. Respondent discouraged patient SG from having a mammogram and recommended
18 she have an inferior test, namely, breast infrared thermography.

19 46. Respondent incorrectly told patient SG that progesterone confers a huge benefit in
20 terms of breast cancer risk.

21 47. Respondent gave patient SG a low dose of compounded testosterone without
22 documenting the rationale for prescribing it.

23 48. Respondent failed to examine patient SG for clinical signs of hyperandrogenemia,
24 and/or failed to document such examination.

25 49. Respondent failed to evaluate patient SG for the safety of hormone replacement
26 therapy (HRT) use, including, but not limited to, the failure to document a normal baseline

27 _____
28 ³ The removal of an ovary and its uterine tube.

1 physical exam of the breasts or mammography, and the failure to document the stability of patient
2 SG's bone density.

3 Patient NC:

4 50. Patient NC is a woman in her 70's with Parkinson's disease and hyperlipidemia.

5 51. The initiation of thyroid therapy in the elderly can precipitate serious cardiac events.

6 52. Respondent initiated thyroid therapy in patient NC despite her elevated risk of
7 subclinical cardiac disease, based on her age.

8 53. Respondent failed to interpret serial thyroid tests correctly and adjust the
9 administered dose accordingly.

10 Patient GE:

11 54. Patient GE was a competitive weight lifter who initially presented to Respondent as a
12 27 year old man with fatigue and insomnia, and a past history of cocaine abuse.

13 55. Respondent failed to perform a physical examination of patient GE; alternatively,
14 Respondent failed to document any physical examination of patient GE.

15 56. Respondent prescribed testosterone to patient GE for approximately five years, from
16 2007 to 2012, for possible hygonadism.⁴

17 57. Respondent failed to evaluate patient GE properly for hypogonadism and/or to work
18 up patient GE for the cause or consequences of hypogonadism; alternatively, respondent
19 prescribed testosterone to patient GE for the purpose of body building, even though such use is
20 not clinically indicated and is prohibited in professional sports.

21 Patients SG, NC and GE:

22 58. Respondent ordered morning and afternoon cortisol value tests to evaluate the adrenal
23 sufficiency of patients SG, NC and GE. Since serum cortisol has a diurnal variation with low
24 values in the afternoon, afternoon levels of cortisol are useless for the diagnosis of adrenal
25 insufficiency, and should not have been ordered.

26
27 ⁴ Hypogonadism is the reduction or absence of hormone secretion or other physiological
28 activity of the gonads (testes or ovaries). Male hypogonadism is a condition in which the body
doesn't produce enough testosterone.

1 59. Respondent failed to examine patients SG, NC and GE for clinical signs of
2 hypoadrenalism; alternatively, Respondent failed to document any such examination.

3 60. Patient SG had normal serum cortisol values but was incorrectly advised by
4 Respondent that she needed "adrenal support."

5 Patients SG and NC:

6 61. Respondent incorrectly diagnosed normal serum vitamin D levels in patients SG and
7 NC as being "low."

8 62. Respondent recommended that patient SG take high doses of vitamin D without
9 documenting her rationale for doing so.

10 63. Respondent ordered unnecessary and excessive laboratory testing for patients SG and
11 NC, including, but not limited to, DHEA-S, hair analysis and microbiology of the stool,
12 measuring pregnenolone, serum estradiol, estrone or free testosterone.

13 64. Respondent committed repeated acts of negligence in her care and treatment of
14 patients SG, NC and GE which included, but were not limited to, the following:

15 (a) Respondent failed to conduct physical examinations of patients SG and GE;
16 alternatively, Respondent failed to document any physical examination of patients SG and GE.

17 (b) Respondent commenced treatment of patient SG for hypothyroidism without clear
18 documentation of the rationale for treatment.

19 (c) Respondent failed to properly evaluate patient SG for signs or symptoms of thyroid
20 deficiency or excess during treatment.

21 (d) Respondent ordered unnecessary thyroid tests such as free T4, and T4 by dialysis.

22 (e) Respondent failed to consider and/or appreciate the increased risk for breast cancer
23 caused by administering progesterone to patient SG, who had had a hysterectomy.

24 (f) Respondent incorrectly discouraged patient SG from having a mammogram and
25 recommended she have an inferior test, breast infrared thermography.

26 (g) Respondent incorrectly told patient SG that progesterone confers a huge benefit in
27 terms of breast cancer risk.

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1 (h) Respondent gave patient SG a dose of compounded testosterone without documenting
2 the rationale for prescribing it.

3 (i) Respondent prescribed testosterone to patient SG but failed to examine her for
4 clinical signs of hyperandrogenemia,⁵ and/or failed to document such examination.

5 (j) Respondent failed to evaluate patient SG for the safety of hormone replacement
6 therapy (HRT) use, including, but not limited to, the failure to document a normal baseline
7 physical exam of the breasts or mammography, and the failure to document the stability of patient
8 SG's bone density.

9 (k) Respondent failed to consider and/or appreciate the increased risk of a serious cardiac
10 event which could be precipitated by initiating thyroid therapy in elderly patient NC.

11 (l) Respondent failed to interpret the results of patient NC's thyroid tests correctly and/or
12 adjust the administered dose accordingly.

13 (m) Respondent prescribed testosterone to patient GE without properly evaluating him for
14 hypogonadism and/or working up patient GE for the cause and consequences of his possible
15 hypogonadism; alternatively, Respondent prescribed testosterone to patient GE for the purpose of
16 body building, even though such use is not clinically indicated and is prohibited in professional
17 sports.

18 (n) Respondent incorrectly ordered afternoon cortisol value tests to assist in the diagnosis
19 the adrenal sufficiency of patients SG, NC and GE.

20 (o) Respondent failed to examine patients SG, NC and GE for clinical signs of
21 hypoadrenalism; alternatively, Respondent failed to document any such examination.

22 (p) Patient SG had normal serum cortisol values but was incorrectly advised by
23 Respondent that she needed "adrenal support."

24 (q) Respondent incorrectly interpreted normal serum vitamin D levels in patients SG and
25 NC as being "low."

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27 ⁵ Hyperandrogenism is a medical condition characterized by excessive production and/or
28 secretion of androgens. An androgen is a male sex hormone, such as testosterone.

1 (r) Respondent recommended that patient SG take high doses of vitamin D without
2 documenting her rationale for doing so.

3 (s) Respondent ordered unnecessary and excessive laboratory testing for patients SG, NC
4 and/or GE, including, but not limited to, DHEA-S, hair analysis and microbiology of the stool,
5 measuring pregnenolone, serum estradiol, estrone or free testosterone.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Incompetence)**

8 65. Respondent is further subject to disciplinary action under section 3527 and California
9 Code of Regulations, title 16, section 1399.521, subdivision (a), as defined by section 2234,
10 subdivision (d), of the Code, in that she has demonstrated incompetence in her care and treatment
11 of patients SG, NC and GE. The circumstances are set forth below:

12 66. Paragraphs 26 through 35, and 39 to 64, above, are hereby incorporated by reference
13 as if fully set forth herein.

14 67. Respondent has demonstrated incompetence in her care and treatment of patients SG,
15 NC and GE which includes, but is not limited to, the following:

16 (a) Respondent failed to properly evaluate patient SG for signs or symptoms of thyroid
17 deficiency or excess during treatment.

18 (b) Respondent ordered unnecessary thyroid tests such as free T4, and T4 by dialysis.

19 (c) Respondent failed to consider and/or appreciate the increased risk for breast cancer
20 caused by administering progesterone to patient SG, who had had a hysterectomy.

21 (d) Respondent incorrectly discouraged patient SG from having a mammogram and
22 recommended she have an inferior test, breast infrared thermography.

23 (e) Respondent incorrectly told patient SG that progesterone confers a huge benefit in
24 terms of breast cancer risk.

25 (f) Respondent failed to consider and/or appreciate the increased risk of a serious cardiac
26 event which could be precipitated by initiating thyroid therapy in elderly patient NC.

27 (g) Respondent failed to interpret the results of patient NC's thyroid tests correctly and/or
28 adjust the administered dose accordingly.

1 (h) Respondent prescribed testosterone to patient GE without properly evaluating him for
2 hypogonadism and/or working up patient GE for the cause and consequences of his possible
3 hypogonadism.

4 (i) Respondent incorrectly ordered afternoon cortisol value tests to assist in the diagnosis
5 the adrenal sufficiency of patients SG, NC and GE.

6 (j) Respondent failed to examine patients SG, NC and GE for clinical signs of
7 hypoadrenalism; alternatively, Respondent failed to document any such examination.

8 (k) Patient SG had normal serum cortisol values but was incorrectly advised by
9 Respondent that she needed "adrenal support."

10 (l) Respondent incorrectly interpreted normal serum vitamin D levels in patients SG and
11 NC as being "low."

12 (m) Respondent ordered unnecessary and excessive laboratory testing for patients SG, NC
13 and/or GE, including, but not limited to, DHEA-S, hair analysis and microbiology of the stool,
14 measuring pregnenolone, serum estradiol, estrone or free testosterone.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Use or Prescribing a Controlled Substance to Herself)**

17 68. Respondent is further subject to disciplinary action under section 3527 and California
18 Code of Regulations, title 16, section 1399.521; subdivision (a), as defined by sections 2239,
19 subdivision (a), and 4022, of the Code, and section 11170 of the Health and Safety Code, in that
20 she used or prescribed a controlled substance to herself, as more particularly alleged hereinafter:

21 69. On or about May 4, 2010, Respondent wrote a prescription (with five refills) for
22 herself for 30 cc of testosterone cream, a Schedule III controlled substance, which she filled for
23 the first time on or about May 4, 2010.

24 70. On or about May 19, 2011, Respondent wrote a prescription (with five refills) for
25 herself for 30 cc of testosterone cream, a Schedule III controlled substance, which she filled for
26 the first time on or about May 20, 2011.

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FIFTH CAUSE FOR DISCIPLINE

(Violation of State or Federal Laws Regulating Dangerous Drugs or Controlled Substances)

71. Respondent is further subject to disciplinary action under section 3527 and California Code of Regulations, title 16, section 1399.521, subdivision (a), as defined by sections 2238, 3502 and 3502.1 of the Code, Title 16, California Code of Regulations sections 1399.540 and 1399.545, and/or Title 21, Code of Federal Regulations section 1306.03, in that she violated state or federal laws regulating the prescribing of dangerous drugs and/or controlled substances by prescribing dangerous drugs and/or controlled substances without being duly authorized thereto, as more particularly alleged hereinafter:

72. Paragraphs 26 to 35, 69 and 70, above, are hereby incorporated by reference as if fully set forth herein.

73. On or about January 25, 2010 and March 2, 2010, Respondent wrote a prescription for the Schedule II controlled substance, Hydrocodone, for patient MC.

74. On or about May 20, 2011, Respondent wrote a prescription for the Schedule II controlled substance, Hydrocodone, for patient JH.

75. On or about September 15, 2009, Respondent wrote a prescription for the Schedule III controlled substance, Nandrolone Decanoate, for patient BG.

76. On or about May 17, 2009, Respondent wrote a prescription for the Schedule III controlled substance, Nandrolone Decanoate, for patient ShK.

77. On or about August 24, 2009, Respondent wrote a prescription for the Schedule IV controlled substance, Diazepam, for patient GP.

78. On or about November 9, 2009, Respondent wrote a prescription for the dangerous drug, Estradiol, for patient NC.

79. On or about May 25, 2009, Respondent wrote a prescription for the Schedule V controlled substance, Codeine with Promethazine, for patient PK.

80. On or about July 20, 2009 and September 4, 2009, Respondent wrote a prescription for the Schedule III controlled substance, Acetaminophen with Codeine Phosphate, for patient MS.

81. On or about the dates listed in column A of table 1, below, Respondent wrote one or more prescriptions for the Schedule III controlled substance, testosterone, for the patients listed in column B of table 1:

Table 1:

COLUMN A	COLUMN B
12/21/09	Patient DA
5/7/10	Patient DA
9/8/10	Patient DA
10/6/11	Patient BA
8/12/09	Patient JoB
10/22/09	Patient JeB
9/2/10	Patient JeB
3/10/11	Patient LB
4/27/11	Patient LB
12/2/10	Patient MB
11/8/11	Patient VB
1/5/12	Patient VB
5/24/11	Patient SB
7/5/11	Patient SB
9/2/11	Patient SB
9/29/11	Patient SB
11/28/11	Patient SB
1/27/12	Patient SB
11/17/09	Patient NC
12/28/09	Patient NC
2/15/10	Patient NC
6/9/10	Patient NC
7/21/10	Patient NC
9/2/10	Patient NC
10/25/10	Patient NC
11/22/10	Patient NC
2/7/11	Patient NC
3/28/11	Patient NC
4/25/11	Patient NC
6/15/11	Patient NC
1/10/11	Patient SD
11/8/11	Patient FDDC
12/3/10	Patient DD
1/11/11	Patient DD
3/24/11	Patient DD
6/21/11	Patient DD
3/5/10	Patient CaD
6/8/10	Patient CaD
8/31/09	Patient CID

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COLUMN A	COLUMN B
9/8/09	Patient CID
1/29/10	Patient CID
4/6/10	Patient CID
6/23/10	Patient CID
12/9/10	Patient CID
1/31/11	Patient CID
7/20/09	Patient GE
10/6/09	Patient GE
10/15/09	Patient GE
12/3/09	Patient GE
1/4/10	Patient GE
2/2/10	Patient GE
3/4/10	Patient GE
4/29/10	Patient GE
6/1/10	Patient GE
7/6/10	Patient GE
8/31/10	Patient GE
10/6/10	Patient GE
11/17/10	Patient GE
12/20/10	Patient GE
1/31/11	Patient GE
3/10/11	Patient GE
6/3/11	Patient GE
11/22/11	Patient GE
2/17/12	Patient GE
6/1/10	Patient DF
8/10/10	Patient DF
10/29/09	Patient SoF
1/4/10	Patient SoF
2/3/10	Patient SoF
4/7/10	Patient SoF
6/23/10	Patient SoF
8/11/10	Patient SoF
10/18/10	Patient SoF
11/24/10	Patient SoF
5/12/11	Patient SoF
6/21/11	Patient SoF
8/4/11	Patient SoF
9/6/11	Patient SoF
12/29/11	Patient SoF
2/20/12	Patient SoF
9/29/09	Patient StF
12/2/09	Patient StF
2/19/10	Patient StF
3/22/10	Patient StF
4/28/10	Patient StF

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COLUMN A	COLUMN B
8/31/11	Patient CF
5/26/11	Patient PG
7/27/11	Patient PG
8/9/11	Patient PG
9/6/11	Patient PG
10/3/11	Patient PG
11/3/11	Patient PG
11/23/11	Patient PG
12/28/11	Patient PG
2/8/12	Patient PG
2/13/12	Patient PG
9/1/09	Patient SG
11/10/09	Patient SG
1/25/10	Patient SG
3/23/10	Patient SG
6/21/10	Patient SG
12/14/10	Patient SG
1/12/11	Patient SG
4/12/11	Patient SG
6/14/11	Patient SG
8/16/11	Patient SG
9/22/11	Patient SG
11/7/11	Patient SG
12/19/11	Patient SG
2/6/12	Patient SG
4/20/10	Patient BG
6/30/10	Patient BG
10/5/10	Patient BG
1/19/11	Patient BG
4/28/11	Patient BG
8/9/11	Patient BG
10/25/11	Patient BG
1/17/12	Patient BG
3/17/11	Patient GeH
4/8/11	Patient GeH
10/20/09	Patient DHW
12/16/09	Patient DHW
2/22/10	Patient DHW
4/14/10	Patient DHW
5/11/10	Patient DHW
7/21/10	Patient DHW
9/22/10	Patient DHW
5/17/11	Patient DHW
6/21/11	Patient DHW
7/27/11	Patient DHW
9/1/11	Patient DHW

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COLUMN A	COLUMN B
10/6/11	Patient DHW
11/9/11	Patient DHW
12/29/11	Patient DHW
2/8/12	Patient DHW
9/8/09	Patient GaH
12/21/09	Patient GaH
9/4/09	Patient NH
10/24/09	Patient NH
12/19/09	Patient NH
5/20/11	Patient JH
9/13/11	Patient JH
11/3/11	Patient JH
12/2/11	Patient JH
4/20/10	Patient LH
1/5/11	Patient LH
4/1/11	Patient LH
5/24/11	Patient LH
7/18/11	Patient MJ
12/16/11	Patient MJ
6/17/11	Patient AJ
5/18/10	Patient DK
6/25/10	Patient DK
12/17/09	Patient JK
1/17/10	Patient JK
2/16/10	Patient JK
3/4/10	Patient JK
3/30/10	Patient JK
4/29/10	Patient JK
5/19/10	Patient JK
6/2/10	Patient JK
7/1/10	Patient JK
7/26/10	Patient JK
8/26/10	Patient JK
9/27/10	Patient JK
5/12/11	Patient ShK
7/28/11	Patient StK
9/29/11	Patient StK
1/11/12	Patient DK
5/7/10	Patient BK
7/8/10	Patient BK
3/3/10	Patient BK
7/31/09	Patient AL
1/21/10	Patient AL
4/19/10	Patient AL
8/11/10	Patient AL
10/14/10	Patient AL

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COLUMN A	COLUMN B
6/17/11	Patient AL
9/22/11	Patient AL
9/23/09	Patient GL
10/21/09	Patient GL
11/24/09	Patient GL
1/7/10	Patient GL
1/29/10	Patient GL
3/9/10	Patient GL
10/1/09	Patient RL
12/4/09	Patient RL
1/19/10	Patient RL
4/8/10	Patient RL
8/4/10	Patient RL
10/19/10	Patient RL
4/26/10	Patient CL
2/4/10	Patient TL
3/4/10	Patient TL
5/23/10	Patient TL
7/8/10	Patient TL
5/5/11	Patient RM
6/8/11	Patient RM
8/16/11	Patient RM
11/28/11	Patient RM
11/5/10	Patient MeM
12/22/10	Patient MeM
4/19/11	Patient MeM
5/13/11	Patient MeM
6/29/11	Patient MeM
7/28/11	Patient MeM
8/30/11	Patient MeM
9/29/11	Patient MeM
10/27/11	Patient MeM
12/12/11	Patient MeM
1/19/12	Patient MeM
11/16/10	Patient SM
12/13/10	Patient SM
3/14/11	Patient SM
10/12/11	Patient SM
1/3/12	Patient SM
7/23/09	Patient NN
9/14/09	Patient NN
9/25/09	Patient NN
11/12/09	Patient PN
2/12/10	Patient PN
5/22/10	Patient PN
3/3/11	Patient PN

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COLUMN A	COLUMN B
4/21/11	Patient PN
7/15/11	Patient PN
10/31/11	Patient PN
9/2/09	Patient MO
12/17/09	Patient MO
3/3/10	Patient MO
4/23/10	Patient MO
6/14/10	Patient MO
7/26/10	Patient MO
9/2/10	Patient MO
10/13/10	Patient MO
11/30/10	Patient MO
9/09/09	Patient DP
10/18/09	Patient DP
12/2/09	Patient DP
12/9/09	Patient DP
2/18/10	Patient DP
4/3/10	Patient DP
5/29/10	Patient DP
8/21/09	Patient GP
9/15/09	Patient GP
11/6/09	Patient GP
2/18/10	Patient GP
9/15/09	Patient PB
12/9/09	Patient PB
2/23/10	Patient PB
7/2/10	Patient PB
7/23/09	Patient LP
10/14/09	Patient LP
12/22/09	Patient LP
1/15/10	Patient LP
4/21/10	Patient LP
5/17/10	Patient LP
6/26/10	Patient LP
6/27/10	Patient LP
4/18/11	Patient LR
9/12/11	Patient LR
11/10/11	Patient LR
1/12/12	Patient LR
1/5/12	Patient JR
1/5/12	Patient RR
9/14/09	Patient ER
3/1/10	Patient ER
6/1/10	Patient ER
12/6/10	Patient ER
4/7/11	Patient ER

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COLUMN A	COLUMN B
8/3/11	Patient ER
11/23/09	Patient GR
2/25/10	Patient GR
5/1/10	Patient GR
6/30/10	Patient GR
9/3/10	Patient GR
9/28/10	Patient GR
12/2/10	Patient GR
3/10/11	Patient GR
4/12/11	Patient GR
10/26/11	Patient GR
7/18/09	Patient MS
8/7/09	Patient BS
11/9/09	Patient BS
12/28/09	Patient BS
2/19/10	Patient BS
4/23/10	Patient BS
6/14/10	Patient NS
8/11/10	Patient NS
11/19/10	Patient NS
2/15/11	Patient NS
11/17/09	Patient LL
5/4/10	Patient LoS
2/28/11	Patient LoS
7/12/11	Patient LoS
10/17/11	Patient LoS
12/19/11	Patient LoS
2/8/12	Patient LoS
8/17/09	Patient LyS
9/10/09	Patient LyS
10/19/09	Patient LyS
11/17/09	Patient LyS
12/19/09	Patient LyS
2/22/10	Patient LyS
3/31/11	Patient MS
5/9/11	Patient MS
6/8/11	Patient MS
7/13/11	Patient MS
8/10/11	Patient MS
9/13/11	Patient MS
8/23/10	Patient PSM
9/2/09	Patient ES
10/7/09	Patient ES
10/30/09	Patient ES
5/26/11	Patient LeS
10/24/11	Patient LeS

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COLUMN A	COLUMN B
12/13/10	Patient ET
4/22/11	Patient ET
8/22/11	Patient ET
12/2/11	Patient ET
12/29/11	Patient ET
8/28/09	Patient ShT
10/1/09	Patient ShT
1/28/10	Patient ShT
6/29/10	Patient ShT
9/7/10	Patient ShT
12/14/10	Patient ShT
4/11/11	Patient ShT
6/22/11	Patient ShT
8/9/11	Patient ShT
12/27/11	Patient ShT
11/1/11	Patient RT
2/1/12	Patient PT
4/22/11	Patient LT
9/14/09	Patient SuT
10/21/09	Patient SuT
6/24/10	Patient JV
11/4/10	Patient JV
2/21/11	Patient JV
1/11/12	Patient JV
11/4/10	Patient GW
12/14/10	Patient GW
1/28/11	Patient GW
4/27/11	Patient GW
5/24/11	Patient GW
9/8/11	Patient GW
10/19/11	Patient GW
6/25/10	Patient HW
12/17/10	Patient HW
5/17/10	Patient WWie
2/17/11	Patient WWie
5/20/11	Patient WWie
8/1/11	Patient WWie
11/14/11	Patient WWie
8/25/10	Patient WWin
3/4/11	Patient WWin
6/1/11	Patient WWin
8/29/11	Patient WWin
12/27/11	Patient WWin
11/4/09	Patient KY
1/5/10	Patient KY
3/5/10	Patient KY

COLUMN A	COLUMN B
6/7/10	Patient KY
7/20/10	Patient KY

SIXTH CAUSE FOR DISCIPLINE

(False or Misleading Advertising)

82. Respondent is further subject to disciplinary action under section 3527 of the Code and California Code of Regulations, title 16, section 1399.521, subdivision (a), as defined by sections 2271, 2234, 2234, subdivisions (a) and (f), 3502 and 3502.1, of the Code, and California Code of Regulations, title 16, sections 1399.540 and 1399.545, in that she disseminated false and misleading representations through her website, in violation of section 17500 of the Code. The circumstances are set forth below:

83. Paragraphs 26 to 35, above, are hereby incorporated by reference as if fully set forth herein.

84. Respondent's website, www.alternativehealthandhealing.com, at all times relevant herein, stated that, "Ms. Marelli is licensed to practice and prescribe. Her work is legally supported by a supervising physician."

85. The above representation is untrue or misleading since, at all times relevant herein, Respondent was practicing illegally, without "support" by a supervising physician. The representation is also misleading in that it tends to create the false impression that Respondent is licensed to practice and prescribe in the way in which she was practicing and prescribing, immediately prior to her suspension, namely, without supervision, in autonomous practice at her home.

SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty or Corruption)

86. Respondent is further subject to disciplinary action under section 3527 and California Code of Regulations, title 16, section 1399.521, subdivision (a), as defined by sections 2234, 2234, subdivision (e), 3502 and 3502.1, of the Code, and California Code of Regulations, title 16, sections 1399.540 and 1399.545, in that she committed an act or acts of dishonesty or corruption substantially related to the qualifications, functions or duties of a physician assistant. The

1 circumstances are set forth in paragraphs 26 through 35, 84 and 85, above, which are hereby
2 incorporated by reference as if fully set forth herein.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(False Records Related to the Practice of Medicine)**

5 87. Respondent is further subject to disciplinary action under section 3527 and California
6 Code of Regulations, title 16, section 1399.521, subdivision (a), as defined by sections 2261,
7 2234, subdivisions (a) and (f), 3502 and 3502.1, of the Code, and California Code of Regulations,
8 title 16, sections 1399.540 and 1399.545, in that she knowingly made or signed one or more
9 documents directly or indirectly related to the practice of medicine which falsely represented the
10 existence or nonexistence of a state of facts. The circumstances are set forth in paragraphs 26
11 through 35, 84 and 85, above, which are hereby incorporated by reference as if fully set forth
12 herein.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Failure to Maintain Adequate Records)**

15 88. Respondent is further subject to disciplinary action under section 3527 and California
16 Code of Regulations, title 16, section 1399.521, subdivision (a), as defined by section 2266 of the
17 Code, in that she failed to maintain adequate and accurate records relating to the provision of
18 services to patients MS, SG, NC and GE. The circumstances are set forth below:

19 89. Paragraphs 26 through 35, and 39 through 64, above, are hereby incorporated by
20 reference as if fully set forth herein.

21 90. Patient MS is an approximately 56 year old man for whom Respondent prescribed
22 testosterone, a Schedule III controlled substance, on or about July 18, 2009, and Acetaminophen
23 with Codeine Phosphate, also a Schedule III controlled substance, on or about July 20, 2009 and
24 September 4, 2009.

25 91. On or about February 29, 2012, and during March, 2012, in the course of its
26 investigation into this matter, the Medical Board both formally and informally asked Respondent
27 to produce the medical records of patient MS.

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1 92. Respondent informed the Board that no records exist for patient MS, and no medical
2 records for patient MS were produced in response to the Board's subpoena for those records.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(General Unprofessional Conduct)**

5 93. Respondent is further subject to disciplinary action under section 3527 and California
6 Code of Regulations, title 16, section 1399.521, subdivision (a), as defined by section 2234 of the
7 Code, in that she has engaged in conduct which breaches the rules or ethical code of the medical
8 profession, or conduct which is unbecoming to a member in good standing of the medical
9 profession, and which demonstrates an unfitness to practice medicine, as more particularly
10 described in paragraphs 26 through 35, 39 through 64, 67, 69, 70, 73 through 81, 84 and 85,
11 above, which are hereby incorporated by reference as if fully set forth herein.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Physician Assistant Committee issue a decision:

15 1. Revoking or suspending Physician Assistant License Number PA 16588, issued to
16 Respondent MADHURI MARELLI, P.A.;

17 2. Ordering Respondent MADHURI MARELLI, P.A. to pay the Physician Assistant
18 Committee the reasonable costs of the investigation and enforcement of this case, pursuant to
19 Business and Professions Code section 125.3; and

20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: May 2, 2012

22 Elberta Portman for

23 ELBERTA PORTMAN
24 Executive Officer
25 Physician Assistant Committee
26 Department of Consumer Affairs
27 State of California
28 Complainant

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